

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

SHAUN ZILLS,

Case No. 24-CV-3420 (JRT/JFD)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MATTHEW ZEHOSKI, WOOC
Associate Warden of Administration;
RON BERGMAN, Education Director;
MICHAEL SCHNEIDER, Librarian –
MCF – Lino Lakes; and MARTHALLER,
Correctional Officer for Education – MCF
– Lino Lakes, in their individual and
official capacities,

Defendants.

In an order dated September 6, 2024, this Court directed plaintiff Shaun Zills to pay an initial partial filing fee of at least \$25.93, consistent with 28 U.S.C. § 1915(b). (Dkt. No. 5.) Mr. Zills was given 21 days to pay the required initial partial filing fee, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mr. Zills has not paid the required initial partial filing fee. In fact, Mr. Zills has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, consistent with the warning previously given to Mr. Zills, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir.

2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: October 7, 2024

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).